

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK ADAMCZYK,
Plaintiff,

vs.

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES,
Defendant.

EXHIBIT “XX” to AFFIRMATION
OF RICHARD H. WYSSLING

07-CV-523S

EXHIBIT XX

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK ADAMCZYK,
Plaintiff,

vs.

AFFIDAVIT OF ROGER McGILL
07-CV-523S

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES,
Defendant.

State of New York)
County of Erie)

ROGER McGILL, being duly sworn, states:

- 1) I am a retired employee of the New York State Department of Correctional Services (DOCS); I make this affidavit in opposition to Defendant's motion for summary judgment in the within matter.
- 2) I was hired by DOCS as a correction officer on June 7, 1982.
- 3) I retired in 2008 with the rank of correction officer.
- 4) I was assigned to Wende Correctional Facility from June 1986 until February 2008.
- 5) I am familiar with the details of Lt. Mark Adamczyk's discharge from DOCS employment.
- 6) Based upon my years of experience as an employee of DOCS, I believe that Lt. Adamczyk was wrongly accused and unfairly disciplined.

- 7) I believe the decision to prosecute Lt. Adamczyk was racially motivated, both because of Lt. Admaczyk's race, and by a desire to protect Captain Kearney and the African-American officers and sergeant who were actually involved in the Catus incident.
- 8) I am aware of other instances in which Wende employees manipulated the disciplinary process to protect African American employees.
- 9) One of those instances involves me.
- 10) I am Caucasian.
- 11) In November 1993, I received a notice of discipline prepared by Wende Superintendent Frank Irwin.
- 12) I was assigned to patrol outside the perimeter of the facility in a facility-owned vehicle.
- 13) My wife brought me my dinner.
- 14) Because it was raining very hard, I parked my vehicle in front of the facility gate, and my wife came and sat in the vehicle with me while I ate my dinner.
- 15) Supt. Irvin saw us in the vehicle and wrote me up for having an unauthorized person in the facility vehicle.
- 16) I received a notice of discipline, and my penalty was six months suspension.
- 17) In 2006 or 2007 a similar incident occurred involving Correction Officer Greg Smith.
- 18) Officer Smith is African American.
- 19) Officer Smith was assigned to the same post I had held in November 1993, patrolling the facility perimeter.
- 20) Officer Smith left the facility vehicle, leaving his radio and his weapon in the vehicle, and went and sat in his girlfriend's car in the facility parking lot.

21) Lt. Ulysses Williams, an African American, found Officer Smith in his girlfriend's vehicle, out of radio contact and without his weapon.

22) Lt. Williams yelled at Officer Smith.

23) Lt. Williams did not write up Officer Smith, and no notice of discipline was ever issued for the incident.

24) Both Superintendent Irwin and Lt. Williams are African American.

25) I believe Lt. Adamczyk was wrongfully discharged, and I urge the Court to permit him to proceed to trial in this matter.

Respectfully submitted,

s/Roger McGill

s/Timothy A. Halas
Sworn to before me this 30th
day of May, 2009.
My Commission Expires 3/13/13
#01HA6202502

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK ADAMCZYK,
Plaintiff,

AFFIRMATION OF SERVICE

vs.

07-CV-523S

NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES,
Defendant.

State of New York)
County of Erie)

RICHARD H. WYSSLING, an attorney admitted to practice in the State of New York affirms under the penalties of perjury that he is that attorney for the Plaintiff in the above-captioned matter, and that on June 1, 2009, he served copies of Exhibit XX to the Affirmation of Richard H. Wyssling upon the Defendant herein by filing same with the Court's electronic filing system, which would then notify KIM S. MURPHY, Assistant Attorney General of Counsel for the Defendant, NYS Office of the Attorney General, Main Place Tower, Suite 300A, 350 Main Street, Buffalo, New York 14202, the same being the address at which she maintains offices for the practice of law.

DATED: June 1, 2009
 Buffalo, New York

s/Richard H. Wyssling
By: Richard H. Wyssling, Esq.
Attorney for Plaintiff
375 Linwood Ave.
Buffalo, NY 14209
(716)882-2243

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